

REMARKS

Applicant's remarks are in response to the Official Action mailed November 15, 2005.

In the Official Action, claim 14 is rejected under 35 U.S.C. §112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which Applicant regards as the invention. Simply, the Examiner is referring to the fact that "said first and second open ends" lacks a prior antecedent basis. In response to this rejection, Applicants have amended claim 14 so as to depend from claim 13. This was an inadvertent error and the amendment clarifies the claimed invention. No new matter has been introduced as a result of this amendment.

REJECTION - 35 U.S.C. §102 - *POUPITCH*

Claims 1, 6-12, 17-23 and 25-27 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,924,738 to *Poupitch*. The Examiner asserts that *Poupitch* discloses a device comprising a first element 18 and a second element 18 detachably secured to a first item 20 and a second item 20. The first and second elements are adapted for flexibly squeezing the first and second item as shown in FIG. 3. The Examiner also asserts that a connecting element 28 is attached to the first and second element, wherein the first item remains in a fixed relation to the second item and the first and second elements are adapted for being connected to the first item and second item simultaneously.

Independent claims 1 and 26 of the present application have been amended to recite that the first element and second element have a first side and a second side. Claims 1 and 26 as

presently amended, also include the recitation wherein the connecting element permits the first side of the first element to confront the first side of the second element and the second side of the second to confront the second side of the second element. No new matter has been added as a result of this amendment. Thus, the device of the present application may be bent upon itself such that the two elements confront one another if so required, without the first element and the second element being substantially deformed. This is particularly useful if one was looking to place both of the elements onto a common item. The first element may be pivoted about the second element such that the first side of the first element confronts the first side of the second element, or the second side of the first element confronts the second side of the second element. This is contrasted with *Poupitch*, which is limited in that adjacent rings may only be stacked on top of one another in a particular arrangement. For instance, because the rib connecting a first ring to a second ring in *Poupitch* is only sliced partically therethrough as shown in FIG. 4 of *Poupitch*, a ring may only be pivoted about an adjacent ring, such that only one side of the ring can abut the same side of an adjacent ring. This is further highlighted in FIGS. 1 and 2 of *Poupitch*, where it is shown that the hinge portion 28 does not permit the bending of adjacent rings 18 in two directions without deforming the rings, and/or deforming or breaking the hinge/connecting element 28. Thus, claims 1 and 26 as presently amended are patently distinct from *Poupitch*, as well as their respective dependent claims.

Amended claim 12 includes the recitation that the connecting element has a center in which the first element and second element are pivotable about, in a first direction and a second direction without substantially deforming the first element and the second element. Thus, similar to claims 1 and

26, the device disclosed by claim 12 allows two opposing elements to be pivoted relative to one another wherein each element may rotate in either direction and still be pivotably coupled to the other element. Thus, for similar reasons with regard to claims 1 and 26, Applicant asserts that claim 12 is also patently distinct from *Poupitch*.

REJECTION - 35 U.S.C. §102 - MARGO

Claims 1-5, 7-8, 10-19, 21-23 and 25-27 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,298,525 to *Margo*. *Margo* discloses a flexible double clip that is capable of holding two articles such as test tubes together. The clip includes two portions 11, having prongs extending outwardly from a connecting portion 14. The prongs include first and second ends defining an opening of the holding portion. The device of *Margo* is limited in that although the double clip has opposing open ends for attaching to a first and second item, the device cannot be folded upon itself, such that both ends of the clip can be attached to the same item without deforming the clip. This is because *Margo* does not disclose a hinge mechanism or similar device permitting the pivoting of one end of the clip relative to the other end of the clip. Thus, for arguments consistent with those in regard to *Poupitch*, the Applicant asserts that the present invention as disclosed in claims 1, 12 and 26 is in condition for allowance. As specifically stated above, independent claims 1, 12 and 26 of the present invention include a recitation allowing for the first element and second element to be pivoted towards one another such that they be stacked on top of each other. *Margo* offers no such teaching and as illustrated by the figures in *Margo*, the two holding portions 11 cannot be pivoted on top of one another such that they both may be disposed on the same

article, such as a test tube, without severely deforming. Thus, Applicants assert that claims 1, 12 and 26, as well as their dependent claims are patently distinct over *Margo*.

REJECTION - 35 U.S.C. §102(b) - FINOCCHIARO, ET AL.

Claims 1, 8, 10-12, 19, 21-23 and 25-28 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,371,131 to *Finocchiaro, et al.* *Finnocchiaro* discloses a holder for cosmetic devices. The holder has a main body 12 with an outer surface 14 and inner surface 16. An annular lip 18 extends from the inner surface 16. A plurality of angular main bodies 12 may be disposed in a cosmetic ring holder 20 as shown in FIG. 2 of *Finnocchiaro*. By placing a plurality of ring holders in the main body of a cosmetic ring holder, a cosmetic and an applicator for applying the cosmetic may be disposed within the same device. But this is the extent of the similarity between the device of *Finnocchiaro* and the device as described in the present application. *Finnocchiaro* does not include the ability of the first element and second element, *i.e.*, holding portions, to pivot about one another such that they may both be applied to a single item or to two discrete items. Thus, for remarks similar to those made with regard to *Poupitch* and *Margo*, Applicant asserts that the independent claims 1, 12 and 26 of the present application as well as their dependent claims are in condition for allowance and should be deemed patentable.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's

Application No.: 10/690,773

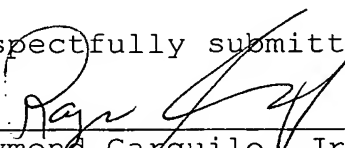
Docket No.: LOREAL 3.0-036

attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: May 15, 2006

Respectfully submitted,

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